

GIG WORKERS AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel McCay

House Sponsor: _____

LONG TITLE

General Description:

This bill amends Title 34, Labor in General, regarding the employment of status of certain workers.

Highlighted Provisions:

This bill:

- ▶ defines terms; and
- ▶ establishes that an on-demand labor contractor is not an employee of a labor marketplace platform company if certain conditions are met.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

34-53a-101, Utah Code Annotated 1953

34-53a-102, Utah Code Annotated 1953

34-53a-201, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **34-53a-101** is enacted to read:



28 CHAPTER 53a. ON-DEMAND LABOR MARKETPLACE PLATFORMS ACT

29 Part 1. General Provisions

30 **34-53a-101. Title.**

31 This chapter is known as "On-demand Labor Marketplace Platforms Act."

32 Section 2. Section 34-53a-102 is enacted to read:

33 **34-53a-102. Definitions.**

34 As used in this chapter:

35 (1) "Labor marketplace platform company" means an entity that uses an

36 Internet-connected software platform, including a mobile application:

37 (a) to connect an on-demand labor contractor with a person seeking an on-demand
38 labor service;

39 (b) through which a third party may request and pay for an on-demand labor service;

40 and

41 (c) through which an on-demand labor contractor may:

42 (i) accept a request for an on-demand labor service from the labor marketplace
43 platform company or a third party; and

44 (ii) receive payment from the labor marketplace platform company or a third party for
45 the on-demand labor contractor's performance of an on-demand labor service.

46 (2) "On-demand labor contractor" means an individual who enters into an agreement
47 with a labor marketplace platform company to use the labor marketplace platform company's
48 software platform to find an opportunity to perform an on-demand labor service for a person
49 seeking an on-demand labor service through the software platform.

50 (3) "On-demand labor service" means work:

51 (a) performed as a discrete task; and

52 (b) (i) performed sporadically; or

53 (ii) that is of limited or finite duration.

54 Section 3. Section 34-53a-201 is enacted to read:

55 Part 2. Employment Status

56 **34-53a-201. Conditions under which an on-demand labor contractor is not an**
57 **employee of a labor marketplace platform company.**

58 (1) An on-demand labor contractor is not an employee of a labor marketplace platform

59 company, if under the agreement between the on-demand labor contractor and the labor
60 marketplace platform company and in fact:

61 (a) all or substantially all of the on-demand labor services the on-demand contractor
62 performs under the agreement:

63 (i) are not for the labor marketplace platform company;

64 (ii) are on a per-job or per-transaction basis; and

65 (iii) the on-demand labor contractor receives payment for on an hourly, per-job, or
66 per-transaction basis;

67 (b) the labor marketplace platform company does not:

68 (i) prescribe specific hours during which the on-demand labor contractor must be
69 available to accept a request for on-demand labor service;

70 (ii) schedule, control, or limit the on-demand labor contractor's working hours;

71 (iii) restrict the on-demand labor contractor from:

72 (A) engaging in another occupation or business; or

73 (B) accepting a request for an on-demand labor service through another labor
74 marketplace platform company or otherwise;

75 (iv) set or control:

76 (A) the rate or amount of pay the on-demand labor contractor receives for an
77 on-demand labor service;

78 (B) any working conditions while the on-demand labor contractor performs the
79 on-demand labor service; or

80 (C) the manner, method, or location in which the on-demand labor contractor performs
81 an on-demand labor service;

82 (v) require the on-demand labor contractor to:

83 (A) accept a request for an on-demand labor service; or

84 (B) perform an on-demand labor service; or

85 (vi) hire, fire, or discipline the on-demand labor contractor for any purpose;

86 (c) each on-demand labor service the on-demand labor contractor performs requires
87 specialized training or skill that the labor marketplace platform company does not provide the
88 on-demand labor contractor; and

89 (d) except for the use of the labor marketplace platform company's software platform,

90 the on-demand labor contractor is responsible for:

91 (i) the practical knowledge, skill, or expertise required to perform an on-demand labor
92 service; and

93 (ii) providing the necessary tools, materials, or equipment required to perform an
94 on-demand labor service.

95 (2) A labor marketplace platform company's act of background screening an
96 on-demand labor contractor does not affect the on-demand labor contractor's employment
97 status under this chapter.